

COMPLIANCE BOARD OPINION NO. 94-3
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May 27, 1994

Mr. Arthur S. Miller

The Open Meetings Compliance Board has considered your complaint dated February 14, 1994, concerning a closed meeting held on January 4, 1994 by the City Council of New Carrollton, Maryland. Your complaint alleges that the minutes of the City Council's next open meeting did not contain the information about the prior closed session required to be set forth by §10-509(c)(2) of the State Government Article, Maryland Code.

The January 4 closed session was held to discuss a prior complaint to the Compliance Board about an earlier meeting of the Council and to discuss procedures for future closed meetings. Proper notice of the closed session was given, and there is no complaint about the Council's decision to hold the closed session.¹ In a timely response on behalf of the City Council, Chairman Stephen L. Keleti stated the view of the Council that the minutes "fulfilled the requirements of the Open Meetings Act."

As most recently discussed in Compliance Board Opinion No. 94-2, also concerning New Carrollton, the Open Meetings Act requires certain public documentation in the aftermath of a closed session. That is, §10-509(c)(2) of the Act requires the minutes of the public body's next open session to include the following information:

- (i) a statement of the time, place, and the purpose of the closed session;
- (ii) a record of the vote of each member as to closing the session;
- (iii) a citation of the authority under this subtitle for closing the session; and
- (iv) a listing of the topics of discussion, person present, and each action taken during the session.

¹ The Council relied on §10-508(a)(7) and (8) as the basis for closing the session. The City Attorney was present at the closed session and evidently gave advice on a proposed letter to be sent to the Compliance Board about the prior complaint and on procedures for future closed meetings.

The next open session of the New Carrollton City Council following the January 4 closed session was the following day, January 5. The Compliance Board has examined the minutes of the January 5 meeting and finds that none of the information required to be set out by §10-509(c)(2) is in those minutes. The minutes of the January 5 meeting do report the approval of the minutes of the January 4 closed session and the approval of the letter to the Compliance Board that emerged from the January 4 closed session. Further, as Mr. Keleti points out in his letter on behalf of the City Council, the motion to approve the letter to the Compliance Board involved a reading of that letter, so that someone in attendance at the January 5 meeting would have inferred the purpose of the January 4 closed session.

The simple fact remains, however, that the minutes of the January 5 open session do not contain the information about the January 4 closed session that is required by §10-509(c)(2).² As we said in Opinion 94-2, "the Act requires that [the] information be in one place, so that interested members of the public know where to look to find out the basis of what happened at a closed session." Because the City Council did not include the required information in its minutes of the January 5 meeting, it violated the Open Meetings Act in this respect.

OPEN MEETING COMPLIANCE BOARD

Walter Sondheim, Jr.
Tyler Webb
Courtney McKeldin

² You supplied the Compliance Board with a videotape recording of the January 5 meeting, in order to confirm that, as your letter transmitting the videotape stated, "the only things the city council absolutely connected to the closed meeting of January 4, 1994 were to approve the minutes and to approve a letter ... concerning my objection to closing the meeting."